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September 14, 2018

Filed via ECF system with copies via Electronic Mail

The Hon. Andrew S. Hanen
United States District Court Judge
515 Rusk Street, Room 8613
Houston, Texas 77002

RE: Harbor Healthcare System v. United States of America, Case No. 4:18-cv-03195

Dear Judge Hanen:

I am counsel for plaintiff, Harbor Healthcare System (“HHCS”) in the above captioned case. The purpose of this letter is to request a telephone or in-person conference in advance of the conference set for January 24, 2019, and to submit certain information potentially helpful to the management of this case.

While we file this Motion for Return of Property and Judicial Intervention (the “Motion”) pursuant to Rule 41(g) of the Federal Rules of Criminal Procedure, such a motion is “properly construed ...as a civil complaint under the court’s general equity jurisdiction.” *Bailey v. United States*, 508 F.3d 736, 738 (5th Cir. 2007); *see also*, *United States v. Ritchie*, 342 F. 3d 903, 906-07 (9th Cir. 2003) (applying Federal Rules of Civil Procedure to Rule 41(g) motion); *Hunt v. Dep’t of Justice*, 2 F. 3d 96, 97 (5th Cir. 1993) (treating Rule 41 motion for return of property as civil matter). However, in our view, the Federal Rules of Civil Procedure imperfectly address this unique type of proceeding and, accordingly, the conduct of this case may benefit from judicial guidance at the outset to avoid unnecessary issues or delay.

In considering an appropriate briefing schedule, the Court should know that the government has agreed not to review further any of the documents, whether in paper or electronic format, seized pursuant to the five search warrants until this Court decides the Motion. This compromise agreement is expressly understood by the parties not to constitute any admission of error or fault on the part of the government. In reliance upon this agreement, HHCS will not at this time seek a temporary restraining order or other expedited order staying the government’s further review of the seized material.

Finally, I note that I am not admitted to the United States District Court for the Southern District of Texas, but HHCS has filed a motion for my admission pro hac vice as attorney- in-charge of this matter.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read 'EWS', followed by a long horizontal line extending to the right.

Edmund W. Searby

cc: Gregory Saikin, Esq.
AUSA Christopher Tortorice